

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

DCO-110

No. 20-1718

UNITED STATES OF AMERICA

v.

FREDERICK H. BANKS,
Appellant

(W.D. Pa. No. 2-15-cr-00168-001)

Present: RESTREPO, PORTER and SCIRICA, Circuit Judges

1. Clerk's Submission for Possible Dismissal Pursuant to Jurisdictional Defect.
2. Response filed by Appellee to Clerk's Submission for Possible Dismissal Pursuant to Jurisdictional Defect.
3. Response filed by Appellant to Clerk's Submission for Possible Dismissal Pursuant to Jurisdictional Defect.

Respectfully,
Clerk/clw

ORDER

In this appeal, the defendant appeals a pre-sentencing order denying, without prejudice and subject to reassertion by counsel, his pro se "motion for discharge and to reduce sentence" in which he requested a sentence of 24 to 30 months, discharge from detention, and other relief regarding sentencing procedures.

To whatever extent the denied request for release from detention was appealable, the issue of the defendant's prejudgment detention is moot now that he has been sentenced. Cf. Murphy v. Hunt, 455 U.S. 478, 481 (1982) (finding that "claim to pretrial bail was moot once [defendant] was convicted"); United States v. O'Shaughnessy, 772 F.2d 112, 113 (5th Cir. 1985) (dismissing bail appeal as moot after intervening conviction and sentence).

The rest of the decisions on appeal are not final, appealable orders. See, e.g., Midland Asphalt Corp. v. United States, 489 U.S. 794, 798 (1989) ("[The final-judgment rule] prohibits appellate review until after conviction and imposition of sentence.").

The appeal is therefore DISMISSED.

By the Court,

s/Anthony J. Scirica
Circuit Judge



A True Copy:

Patricia A. Dodszeit

Patricia S. Dodszeit, Clerk
Certified Order Issued in Lieu of Mandate

Dated: October 8, 2020
CLW/cc: Laura S. Irwin, Esq.
Marvin Miller, Esq.